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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,303	03/14/2001	Yoshihito Ishibashi	09792909-4859	3750

26263 7590 07/22/2005

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT PAPER NUMBER

3627

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,303

Applicant(s)

ISHIBASHI, YOSHIHITO

Examiner

Mariësa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 19-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's "Response to November 3, 2004 Office Action" filed on May 9, 2005 has been considered with the following effect.

Applicant's response by virtue of amendment to the Specification has overcome the Examiner's objection to the Specification.

Applicant's response by virtue of amendment to claims 17-18 has overcome the Examiner's rejection of such claims under 35 USC 101.

Applicant's response by virtue of amendment to claims 10-16 has overcome the Examiner's rejection of such claims under 35 USC 112, second paragraph.

Examiner acknowledges the replacement sheets of Figures 1, 3-4, 8, 10, 14, 18-19, and 24-28.

Claims 1 and 9-18 are amended. Claims 1-18 remain pending in this application. Claims 19-79 are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,389,538 to Gruse et al.

Regarding claims 1, Gruse discloses a content secondary distribution management system comprising: a plurality of user devices for managing secondary distribution in which a transaction of content usable by a user device is performed between the plurality of user devices (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), wherein a settlement log (audit logs and tracking col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9) for the use of the content is issued from a content providing on of the plurality of user devices (content provider) to one of a service provider (electronic store) and a clearing center (clearinghouse) every time an identical content is distributed (see at least col. 21, lines 46-51; col. 47, lines 49-55) and a settlement processing for the identical content is performed under the management of the one of a service provider and clearing center (see at least col. 23, lines 19-38).

Regarding claim 2, Gruse discloses a content receiving user (end user) device for receiving the content deducts a content usage fee from an electronic money balance up to an allowable amount of money set in an issue log based on information of usage control policy of the content, the content receiving user device creates a usage log; the content providing user device creates a receive log and sends the receive log to the service provider and a clearing center; and the service provider and the clearing center performs the settlement processing for the electronic money for the use of the content based on the receive log, and requests and account management institution to perform

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transfer processing for the content usage fee; and the account management institution performs the transfer processing (see at least col. 48, lines 1-43; col. 49, lines 31-61).

Regarding claims 3-8 and 10-16, Gruse discloses:

- the content to be distributed between the user devices is contained in a secure container which stores a content price and information of a usage control policy including profit distribution information (see at least col. 10, lines 9-17), and wherein the service provider and a clearing center constructs a form of the transfer processing according to a log containing a content fee payer and a content fee receiver based on the profit distribution information (see at least col. 11, lines 2-9; col. 15, lines 18-25);
- the usage control policy information includes indicating whether the secondary distribution of the content between the user devices is allowed, and wherein upon receiving the receive log created for a content in which the secondary distribution is not allowed, the service provider and the clearing center nullifies settlement processing to be performed for the receive log (see at least col. 23, lines 19-38);
- each user devices for performing the transaction of the content comprises an encryption processing unit, mutual authentication processing, and the user devices attach a digital signature and verify the digital signature (see at least col. col. 9, lines 58-67; col. 10, lines 4-17; col. 12, lines 43-54; col. 15, lines 30-35; col. 16, lines 42-55; col. 17, lines 12-20);
- the user devices, service provider, and clearing center comprises an encryption processing unit, mutual authentication processing, attach a digital signature and

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verify the digital signature (see at least col. 9, lines 58-67; col. 10, lines 4-17; col. 12, lines 43-54; col. 15, lines 30-35; col. 16, lines 42-55; col. 17, lines 12-20);

- the clearing center comprises a user balance database for managing an electronic money balance of the content and creates an issue log in which an allowable amount of money is set up to electronic money balance (see at least col. 47, lines 49-67; col. 48, lines 1-43); and
- usage control policy information includes profit distribution information of the content usage fee, and where usage log and receive log include the profit distribution information, the service provider and clearing center performs the settlement processing for the content usage fee based on profit distribution information also sends the transfer request to the account management institution (see at least col. 10, lines 9-17; col. 11, lines 2-9; col. 15, lines 18-25).

Regarding claims 9, and 17-18, Gruse discloses a method and a computer-readable medium having stored therein computer-executable instructions for managing secondary distribution in which a transaction of content usable a user device is performed between a plurality for user devices (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), comprising: issuing a settlement log for the use of the content from a content providing user device to a service provider and a clearing center every time an identical content is distributed; and performing settlement processing for the identical content based on the settlement log under the management of the service provider and a clearing center (see at least col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9; col. 21, lines 46-51; col. 23, lines 19-38).

Response to Arguments

Applicant's arguments filed May 9, 2005 have been fully considered but they are not persuasive.

Applicant's remark that "Gruse et al. does not disclose or suggest a settlement log for the use of the content is issued from a content providing one of the plurality of user devices to one of a service provider and a clearing center every time an identical content is distributed".

The Examiner notes that Gruse does disclose a settlement log as recited above. Gruse discloses a logging site which receives play information which includes the number of times that the content data has been played by the associated content player (abstract). Information is transmitted to a logging site whenever the content data is played by the content player or copied from the content player to an external medium so that usage of the licensed content data can be tracked (Abstract). The Clearinghouse (clearing center) maintains an audit logs of information for each operation that is performed during content purchase transactions and report request transaction (col. 47, lines 49-52). Interfaces exist for communication with the Clearinghouse(s), transmission of purchase requests, and or special services such as pay per listen or cases where each access to the content is accounted for (col. 88, lines 42-46). The tracking of each use of content by the player application can be transmitted to one or more logging sites such as the Clearing House(s) or Content Provider(s) or Electronic digital Content Store(s) or any site designed coupled to Transmission Infrastructure (col. 88, lines 51-56). For example, the use of the content can be uploaded to the logging

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site during every use of the content, such as, when duplicating or copying the content stored at the End User Device(s), onto an external device such as DVD, digital tape, or readable/writeable recordable media, the use is updated to the logging site (col. 88, line 67 – col. 89, line 6). This ensures the Content Provider(s) can accurately track the usage of their Content during their playing, duplicating or other actions upon the content (col. 89, lines 9-11).

Such logging site which receives play information which includes the number of times that the content data has been played by the associated content player; the tracking of each use of content by the player application can be transmitted to one or more logging sites such as the Clearing House(s) or Content Provider(s) (service provider) or Electronic digital Content Store(s) or any site designed coupled to Transmission Infrastructure; and the use of the content can be uploaded to the logging site during every use of the content, such as, when duplicating or copying the content stored at the End User Device(s) (user device), onto an external device are considered a settlement log for the use of the content is issued from a content providing one of the plurality of user devices to one of a service provider and a clearing center every time an identical content is distributed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

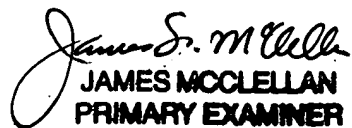
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JAMES MCCLELLAN
PRIMARY EXAMINER

mtot
July 17, 2005